



General Assembly

January Session, 2007

Raised Bill No. 7312

LCO No. 5072

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Referred to Committee on Energy and Technology

Introduced by:
(ET)

***AN ACT CONCERNING WHISTLEBLOWERS AND PLANNED
RADIATION RELEASES.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 16-8a of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2007*):

3 (a) No public service company, as defined in section 16-1, holding
4 company, as defined in section 16-47, or Nuclear Regulatory
5 Commission licensee operating a nuclear power generating facility in
6 this state, or person, firm, corporation, contractor or subcontractor
7 directly or indirectly providing goods or services to such public service
8 company, holding company or licensee, may take or threaten to take
9 any retaliatory action against an employee for the employee's
10 disclosure of (1) any matter involving the substantial misfeasance,
11 malfeasance or nonfeasance in the management of such public service
12 company, holding company or licensee, or (2) information pursuant to
13 section 31-51m. Any employee found to have knowingly made a false
14 disclosure shall be subject to disciplinary action by the employee's
15 employer, up to and including dismissal.

16 (b) Any employee of such a public service company, holding
17 company or licensee, or of any person, firm, corporation, contractor or
18 subcontractor directly or indirectly providing goods or services to such
19 a public service company, holding company or licensee, having
20 knowledge of any of the following may transmit all facts and
21 information in the employee's possession to the Department of Public
22 Utility Control: (1) Any matter involving substantial misfeasance,
23 malfeasance or nonfeasance in the management of such public service
24 company, holding company or licensee; or (2) any matter involving
25 retaliatory action or the threat of retaliatory action taken against an
26 employee who has reported the misfeasance, malfeasance or
27 nonfeasance, in the management of such public service company,
28 holding company or licensee. With regard to any matter described in
29 subdivision (1) of this subsection, the department shall investigate
30 such matter in accordance with the provisions of section 16-8 and shall
31 not disclose the identity of such employee without the employee's
32 consent unless it determines that such disclosure is unavoidable
33 during the course of the investigation. With regard to any matter
34 described in subdivision (2) of this subsection, the matter shall be
35 handled in accordance with the procedures set forth in subsections (c)
36 and (d) of this section.

37 (c) (1) Not more than thirty business days after receipt of a written
38 complaint, in a form prescribed by the department, by an employee
39 alleging the employee's employer has retaliated against an employee
40 in violation of subsection (a) of this section, the department shall make
41 a preliminary finding in accordance with this subsection.

42 (2) Not more than five business days after receiving a written
43 complaint, in a form prescribed by the department, the department
44 shall notify the employer by certified mail. Such notification shall
45 include a description of the nature of the charges and the substance of
46 any relevant supporting evidence. The employer may submit a written
47 response and both the employer and the employee may present
48 rebuttal statements in the form of affidavits from witnesses and

49 supporting documents and may meet with the department informally
50 to respond verbally about the nature of the employee's charges. The
51 department shall consider in making its preliminary finding as
52 provided in subdivision (3) of this subsection any such written and
53 verbal responses, including affidavits and supporting documents,
54 received by the department not more than twenty business days after
55 the employer receives such notice. Any such response received after
56 twenty business days shall be considered by the department only upon
57 a showing of good cause and at the discretion of the department. The
58 department shall make its preliminary finding as provided in
59 subdivision (3) of this subsection based on information described in
60 this subdivision, without a public hearing.

61 (3) Unless the department finds by [clear and convincing] a fair
62 preponderance of the evidence that the adverse employment action
63 was taken for a reason unconnected with the employee's report of
64 substantial misfeasance, malfeasance or nonfeasance, there shall be a
65 rebuttable presumption that an employee was retaliated against in
66 violation of subsection (a) of this section if the department finds that:
67 (A) The employee had reported substantial misfeasance, malfeasance
68 or nonfeasance in the management of the public service company,
69 holding company or licensee; (B) the employee was subsequently
70 discharged, suspended, demoted or otherwise penalized by having the
71 employee's status of employment changed by the employee's
72 employer; and (C) the subsequent discharge, suspension, demotion or
73 other penalty followed the employee's report closely in time.

74 (4) If such findings are made, the department shall issue an order
75 requiring the employer to immediately return the employee
76 temporarily to the employee's previous position of employment or an
77 equivalent position [pending the completion of] while the
78 [department's] department completes its full investigatory proceeding
79 pursuant to subsection (d) of this section.

80 (d) Not later than thirty days after making a preliminary finding in

81 accordance with the provisions of subsection (c) of this section, the
82 department shall initiate a full investigatory proceeding in accordance
83 with the provisions of section 16-8, at which time the employer shall
84 have the opportunity to rebut the presumption. Such investigation
85 shall continue regardless of whether the parties come to a settlement.
86 The department may issue orders or impose civil penalties in a manner
87 that conforms with the notice and hearing provisions in section 16-41
88 against a public service company, holding company or licensee or a
89 person, firm, corporation, contractor or subcontractor directly or
90 indirectly providing goods or services to such public service company,
91 holding company or licensee, in order to enforce the provisions of this
92 section.

93 (e) If an employee or former employee of such a public service
94 company, holding company or licensee, or of a person, firm,
95 corporation, contractor or subcontractor directly or indirectly
96 providing goods or services to such a public service company, holding
97 company or licensee, having knowledge of any matter involving the
98 substantial misfeasance, malfeasance or nonfeasance in the
99 management of such public service company, holding company or
100 licensee, enters into an agreement with the employee's employer that
101 contains a provision directly or indirectly discouraging the employee
102 from presenting a written complaint or testimony concerning such
103 misfeasance, malfeasance or nonfeasance in any legislative,
104 administrative or judicial proceeding, such provision shall be void as
105 against public policy.

106 (f) The Department of Public Utility Control shall adopt regulations,
107 in accordance with chapter 54, to carry out the provisions of this
108 section. Such regulations shall include the following: (1) The
109 procedures by which a complaint may be brought pursuant to
110 subsection (a) of this section; (2) the time period in which such a
111 complaint may be brought; (3) the time period by which the
112 department shall render a decision pursuant to subsection (d) of this
113 section; (4) the form on which written complaints shall be submitted to

114 the department by an employee pursuant to subsection (c) of this
115 section; and (5) the requirement that a notice be posted in the
116 workplace informing all employees of any public service company,
117 holding company and licensee and of any person, firm, corporation,
118 contractor or subcontractor directly or indirectly providing goods or
119 services to a company or licensee, as defined in subsection (b) of this
120 section, of their rights under this section, including the right to be
121 reinstated in accordance with subsection (c) of this section.

122 (g) Any proceeding held pursuant to this section shall not be
123 contested case proceedings and shall be independent actions. Any
124 proceeding held or settlement reached pursuant to this section shall be
125 made available to the public.

126 (h) Any nuclear licensee who violates this section shall be fined not
127 more than ____ dollars.

128 Sec. 2. Section 22a-135 of the general statutes is repealed and the
129 following is substituted in lieu thereof (*Effective October 1, 2007*):

130 (a) The Department of Environmental Protection shall: (1) Review
131 the plans for and operation of safety programs at nuclear plants; (2)
132 make recommendations to the Nuclear Regulatory Commission
133 concerning third-party inspection of components and construction of
134 nuclear plants for the purpose of improving quality assurance plans
135 and programs; (3) require the immediate reporting to the
136 Commissioner of Environmental Protection or his designee, which
137 may be another state agency, by licensees of the United States Nuclear
138 Regulatory Commission which operate nuclear power generating
139 facilities in this state as soon as the licensee has knowledge or, in the
140 exercise of reasonable care should have had knowledge of (A) any
141 release of radiation which is planned, unplanned, unmonitored or
142 which exceeds design standards and specifications established by the
143 Nuclear Regulatory Commission, and (B) any occurrence, incident or
144 other abnormal circumstance, unless it is immediately evident that
145 such occurrence, incident or circumstance is not required to be

146 reported within twenty-four hours or sooner to the Nuclear Regulatory
147 Commission; (4) monitor radiation originating from nuclear plants and
148 perform tests to detect any buildup of radioactivity in the soil, water,
149 plants or animals of the state; (5) review the training and education of
150 workers at nuclear plants to insure awareness of the possible risks of
151 cancer and future genetic effects; (6) represent the interests of the state
152 in federal and state regulatory hearings and other administrative
153 actions concerning nuclear plants which affect the state; (7) intervene
154 in federal proceedings and petition federal agencies for revision of
155 existing regulations where appropriate; (8) conduct periodic on-site
156 evaluations of the effectiveness and enforcement of federal regulations
157 for the packaging and transportation of radioactive material; (9) study
158 plans for, and hazards inherent in the decommissioning of Connecticut
159 nuclear plants including the possible future use of land now in use by
160 a nuclear power facility; (10) study the storage problems posed by high
161 level wastes; (11) study and, in cooperation with the state police,
162 monitor the security of nuclear plants to assure that the dangers from
163 sabotage and terrorism are minimized; (12) monitor sources of ionizing
164 radiation, microwave radiation and radioactive materials within the
165 state; (13) review the state emergency plan for radiation safety; and
166 (14) investigate out-of-state potential radiological hazards which may
167 have a significant adverse effect upon the health or safety of the people
168 of the state. The commissioner shall charge each of the four nuclear-
169 powered commercial electric power generating plants an annual fee of
170 sixty thousand dollars for monitoring radiation released from such
171 plants. Nuclear fuels radiation facilities shall pay an annual fee of
172 fifteen thousand dollars for monitoring such plants.

173 (b) In addition to the reporting required of a licensee pursuant to the
174 provisions of subdivision (3) of subsection (a) of this section, the
175 department may require the reporting immediately or within such
176 time period as the department may designate of any additional
177 occurrence, incident or other abnormal circumstance which is not
178 required to be reported within twenty-four hours or sooner to the
179 Nuclear Regulatory Commission. The department shall adopt

180 regulations, in accordance with chapter 54, to carry out the provisions
181 of this subsection.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2007</i>	16-8a
Sec. 2	<i>October 1, 2007</i>	22a-135

Statement of Purpose:

To protect nuclear whistleblowers and to require nuclear plant operators to notify the public in advance of planned radiation releases.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]